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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,	CR 16-23-BU-DLC
Plaintiff,	
vs.	POINT BRIEF RE: HASISH
MICHAEL JAMES MASON,	
Defendant.	

The United States of America, represented by Brendan McCarthy, Assistant United States Attorney for the District of Montana, submits the following point brief concerning the classification of hashish versus marijuana under the Montana Marijuana Act.

Mont. Code Ann. § 50-46-302(5) states that “‘marijuana’ has the meaning provided in 50-32-101.” § 50-32-101(18) then defines marijuana as “all plant material from the genus *Cannabis* containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.” Moreover, § 50-32-101(15) defines hashish as follows: “‘hashish’, as distinguished from marijuana, means the mechanically processed or extracted plant material that contains tetrahydrocannabinol (THC) and is composed of resin from the cannabis plant.”

The Montana Marijuana Act also defines a marijuana-infused product as “a product that contains *marijuana* and is intended for use by a registered cardholder by a means other than smoking.” (emphasis added) Mont. Code Ann. § 50-46-302(6)(a).

In *State v. Pirello*, the Montana Supreme Court held that hashish does not fall within the Montana Marijuana Act’s “useable marijuana” exception to the Controlled Substances Act. 365 Mont. 399, 403 (2012). The court found that “[o]nce that plant material was ‘mechanically processed or extracted’ in a manner that reduces it to resins, the substance ceased to fall within the definition of ‘marijuana,’ and therefore could not be contained within the definition of ‘usable marijuana.’” *Id.*

Respectfully submitted this 16th day of February, 2017.

MICHAEL W. COTTER
United States Attorney

/s/Brendan McCarthy
BRENDAN McCARTHY
Assistant U.S. Attorney

CERTIFICATE REGARDING COMPLIANCE

Pursuant to D. Mont. L.R. 7.1(d)(2) and CR 47.2, the attached point brief is proportionately spaced, has a typeface of 14 points or more, and the body contains 219 words.

/s/Brendan McCarthy
BRENDAN McCARTHY
Assistant U.S. Attorney

CERTIFICATE OF SERVICE
L.R. 5.2(b)

* * *

I hereby certify that on February 16, 2017 a copy of the foregoing document was served on the following persons by the following means:

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